
CHAPTER 24
SENIOR JUDGES
Administrative Rule 5(B)

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The legislature authorized the creation of the Senior Judge program, allowing Indiana courts to use the services of retired judges to supplement existing judicial resources. [Ind. Code 33-23-3-1](#). A senior judge may act as a replacement when the regular judge is unavailable; as a complement when the regular judge is hearing a trial, working on opinions or fulfilling administrative duties; or as an assistant to oversee the processing of certain types of cases or court programs.

The Indiana Supreme Court promulgates rules to further define the certification and appointment process for senior judges. [Ind. Code 33-24-3-7](#). In 2003 the Supreme Court promulgated [Ind. Administrative Rule 5](#), setting the parameters for the certification and use of senior judges.

A former judge or magistrate must first apply to the Judicial Nominating Commission for [certification to serve as a Senior Judge](#). The applicant must have served as an elected or appointed judge or magistrate for at least four (4) years and one of those service years must have occurred within five (5) years of the initial application. The Commission reviews the qualifications and makes a determination that the individual is fit to serve. Each applicant must agree that he/she is fit to serve as a senior judge; will serve at least thirty (30) days as senior judge in the year of appointment; will comply with the Code of Judicial Conduct; will not serve as an elected or appointed government official outside of the judicial branch of government; will serve where assigned; will not practice law in the courts where appointed or assigned as senior judge ; and will continue to serve in all special judge cases where serving at the time of leaving office, provided however that if the circumstances that led to the appointment as special judge no longer exist and no other disqualification exists, the case may be returned to the regular judge of the court where the case is pending. The Commission certifies to the Supreme Court that an applicant has met the criteria for serving as a Senior Judge and recommends approval to serve. Each year senior judges must apply for [recertification](#).

Sitting judges on the Court of Appeals, Tax Court, and Trial Courts must make a [request for the appointment](#) of senior judges to serve in their court during the coming calendar year. These requests are renewed each year. The Supreme Court issues an Order each year assigning senior judges. Currently, every Trial Court receives an annual minimum of ten (10) senior judge days. Ind. Administrative Rule 5(B)(2). The Supreme Court assigns courts with higher weighted caseloads additional [Senior Judge Service Days](#) .

A judge wishing to use a senior judge shall issue an order naming the senior judge who will serve and specify the day(s) the senior judge is to serve. The judge shall specify whether the service is limited to the regular business hours of the court or is for the full twenty-four (24) hours. Senior Judges must submit a verified statement that they do not practice law in the courts where they serve as senior judge. The presiding judge's order, with the senior judge's verified statement attached, must be filed in the Record of Judgments and Orders and a copy must be sent to the Division of State Court Administration.

The senior judge must submit a [statement of service](#) to the court served. Courts must track the usage of senior judges and not exceed its allocated days.

Senior judges must submit a [claim for service](#) to State Court Administration no later than thirty (30) days from the date of service. Administrative Rule 5(B)(7).

Senior judges usually serve a full day; however, on some occasions they serve less than a full day. In these situations, the senior judge can file a claim for the portion of the day served.

The [payment schedule](#) published by the Executive Director of State Court Administration sets forth the payments to which senior judges are entitled when serving as special judges and mediators.

Information regarding [Senior Judge Service](#) can be found on the judicial website. This site contains a link to a spreadsheet that includes the number of days a senior judge has served, the number of senior judge days allocated to a Trial Court, and the number of senior judge days a Trial Court has used. The site is updated periodically during the year.

In calendar year 2013, Indiana had 99 former judges certified to serve as a Senior Judge. Senior judges served a total of 4525 days during 2013 (the last year of complete annual information). The service of Senior Judges used by Indiana trial courts is equivalent to the use of twenty-three full time trial court judges, based on the criteria used in the Indiana weighted caseload analysis. The cost to the state in salary and benefits for an additional 23 trial court judges would have been \$3,304,134 (\$143,658 for salary and benefits multiplied by 23 judges). The cost of using Senior Judges by our trial courts for 2013 was \$1,480,211. The savings to the state in utilizing the services of senior judges instead of adding an additional 23 trial court judges was \$1,823,923 (\$3,304,134 minus \$1,480,211).

FREQUENTLY ASKED QUESTIONS

Who May Serve As a Senior Judge?

An individual who has served as an elected or appointed judge or magistrate for at least four (4) years with at least one of those service years occurring within five (5) years may apply to serve as a senior judge. [Ind. Code 33-27-4-1](#). The Nominating Commission also may waive this criterion and certify a senior judge with less service, but only under exceptional circumstances.

What are the Procedures for Requesting a Senior Judge to Serve?

The ability to serve as a Senior Judge is a three step process. All steps must be completed before a Senior Judge is eligible to serve. First, a former judge or magistrate with the requisite amount of experience who wishes to serve as a senior judge must be initially certified and annually recertified by the Indiana Judicial Nominating Commission. Second, a Court must make a request for assignment of Senior Judges to the court. Finally, the Supreme Court must issue an Order appointing the Senior Judge to serve.

How Do Senior Judges Get Certified?

A former judge or magistrate who wants to serve as a Senior Judge must file an annual application with the Judicial Nominating Commission. The Commission must certify to the Supreme Court that the applicant has served as an elected or appointed judge or magistrate for at least four (4) years and that at least one of those service years occurred within five (5) years of the application. For returning senior judge applicants, the four (4) years of service as an elected or appointed judge or magistrate may be more than five (5) years prior to the application if he or she has served at least thirty (30) days as a senior judge during a calendar year within five (5) years of the application. The Nominating Commission also may waive these criteria and certify a senior judge with less service, but only under exceptional circumstances.

In addition to the judicial experience and timing criteria described above, the Nominating Commission must certify that a former judge or magistrate is fit to serve as a Senior Judge, and:

1. Agrees to serve as a senior judge for at least thirty (30) days in the year of appointment and has not in any previous year of service failed to serve for at least thirty (30) days without good cause;
2. Agrees to comply with the Code of Judicial Conduct;

3. Agrees to not serve as an elected or appointed government official outside the judicial branch of government, except with Supreme Court approval;
4. Agrees to serve where assigned;
5. Agrees to continue to serve in all special judge cases in which the former judge was serving as a special judge at the time the former judge left office; and,
6. Agrees not to practice law in the courts in which the senior judge is appointed or assigned as senior judge.

Where Can Senior Judges Serve?

The Court of Appeals, Tax Court or a circuit, superior, or probate court may ask the Supreme Court to assign senior judges to their court for the calendar year. The number of days a court may use the assistance of a senior judge is based on caseload analysis. Courts with the highest caseloads will have unlimited use of senior judges. Regardless of caseload, however, every court may use a senior judge for at least 10 days during the calendar year.

What Authority Does A Senior Judge Have?

A senior judge has the same jurisdiction as the presiding judge of the court where the judge is appointed to serve. This authority is limited to the days that a senior judge is serving in that court. In addition, a senior judge has jurisdiction to officiate at marriages at any time during the period of appointment. A senior judge also may retain jurisdiction in a pending case on the order of the presiding judge of the court. Ind. Administrative Rule 5(B)(4).

Unlike judges pro tempore, who are empowered to act only in the absence of the regular judge, senior judges may serve concurrently with the other judicial officers of the court in which they are appointed.

What Is the Compensation for Senior Judges?

Indiana Code Ind. Code [33-23-3-5](#), effective July 1, 2007, provides for senior judge per diem compensation at a rate of \$100 for each of the first thirty (30) days of service and up to \$250 for each day of service from day thirty-one (31) to day one hundred (100). The Indiana Supreme Court provides the compensation rate for senior judge in Administrative Rule 5 and by Order adjusting the statutory rates when necessary. Senior Judges may receive compensation for no more than one hundred (100) days.

Due to fiscal constraints the Supreme Court has issued orders adjusting the senior judge compensation rate. The per diem rate established for 2014 is \$100 for the first thirty (30) days; \$175 for service days thirty-one through seventy-four (74); and \$200 for service days seventy-five (75) through one hundred (100).

Senior Judges who serve as special judges are paid according to a schedule for payment of special judges established by the Director of the Division of State Court Administration.

Senior Judges are not entitled to compensation for special judge service when the service is performed on the same day he or she serves as a senior judge.

Senior judges who serve 30 days or more in a year are entitled to state insurance benefits, including group health, life, dental and vision.

How Do Senior Judges Get Paid?

The Division of State Court Administration is in charge of compensation for senior judges. A senior judge must file a claim for service with the Division of State Court Administration. The Division will then present the claim to the Auditor of State for payment. Claims for compensation must be made within 30 days of the date of service.

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